

REMARKS

Claims 1-7, 10, 11, 14, 15 and 22-32 remain pending in the present application. Claims 27, 29, 30 and 32 have been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

REJECTION UNDER 35 U.S.C. § 103

Claims 1, 10, 11, 14, 15, 22-25 and 27-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Viazanko, (U.S. Pat. No. 4,798,113) in view of Applicant's admitted prior art (hereafter "APA"). Claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Viazanko, in view of the admitted prior art (APA) as applied to Claim 22 above, and further in view of Novak (U.S. Pat. No. 3,901,498). Applicant respectfully traverses these rejections by the Examiner.

Regarding Claim 1, it defines a first and a second fence assembly disposed on opposite sides of the base. Each of the two fence assemblies include a fixed fence and a movable fence. The movable fences are defined as being movable to provide clearance for the cutting tool.

The Examiner is of the opinion that Viazanko teaches or suggests almost every structural limitation of the claimed invention. Applicant disagrees with this interpretation of Viazanko. Viazanko does not disclose a fixed and movable fence on both sides of the cutting tool. Viazanko discloses a two-piece fixed fence on each side of the cutting tool. The fence disclosed in Viazanko comprises a fixed portion 22 (20), a fixed portion 126 (162) and a scale holder 144 (160). As stated in column 5, lines 43-54, when Table 74 is aligned, groove 142 aligns with a similar groove in fence 22 and scale holder 144

is positioned therein. Scale holder 144 carries scale 146 and when zero on the scale is set to the side of the saw blade, it can be used to directly position wood to be cut. Thus, it is clear that once scale holder 144 is positioned, it goes against the teachings of Viazanko to move scale holder 144. Any movement of scale holder 144 after its proper positioning in groove 142 and fence 22 would destroy the positioning of scale 146 and thus make scale holder 144 and scale 146 unsatisfactory for its intended purpose.

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

"Although statements limiting the function or capability of a prior art device require fair consideration, simplicity of the prior art is rarely a characteristic that weighs against obviousness of a more complicated device with added function." *In re Dance*, 160 F.3d 1339, 1344, 48 USPQ2d 1635, 1638 (Fed. Cir. 1998).

The intended use of scale holder 144 is to measure wood using scale 146 once scale 146 and scale holder 144 are properly positioned. The present invention provides movable fences which provide clearance for the cutting blade at its various positions and have nothing to do with measurement of a workpiece.

Thus, Applicant believes Claim 1 patentably distinguishes over the art of record. Likewise, Claims 10, 11, 14 and 15 which depend from Claim 1 are also believed to patentably distinguish over the art of record. Claims 27 and 30 which depended from Claim 1 have been amended to independent form and are discussed below.

Regarding Claim 22, it defines an adjustable fence assembly which has a fixed fence on one side of the saw blade and a movable fence which is selectively movable interconnected with the base and positioned on the same side as the fixed fence. The claim then defines the height of the planar surfaces defined by the fixed fence and the movable fence with the height of the planar surface of the movable fence being greater than height of the planar surface of the fixed fence.

First, as detailed above, Viazanko does not disclose a movable fence and thus the above discussion applies here also. Second, as clearly shown in Figure 2, the front surface of fixed fence 126 is greater than the front surface of scale holder 144 even though scale holder 144 is not a movable fence. This is exactly opposite to what is defined in Claim 22.

Thus, Applicant believes Claim 22 patentably distinguishes over the art of record. Likewise, Claims 23-26 which ultimately depend from Claim 22 are also believed to patentably distinguish over the art of record. Claims 29 and 32 have been amended to independent form and are discussed below. Reconsideration of the rejection is respectfully requested.

Regarding Claims 27 and 29, Claim 27 has been amended to independent form to include the limitations of Claim 1 and Claim 29 has been amended to independent form to include the limitations of Claim 22. Thus, the arguments above relating to Claim 1 apply here to Claim 27 and the arguments above relating to Claim 27 apply here to Claim 29. Both Claims 27 and 29 include the limitation that the movable fence is movable to a position between the fixed fence and the cutting tool (saw blade).

Even though scale holder 144 is not a movable fence, no where in Viazanko does it disclose that scale holder 144 is positioned beyond the end of fence 22 which would be a position between the fixed fence and the cutting tool. The same can be said for scale holder 164 and fence 20; and scale holder 165 and fence 22. The Examiner's position with regards to this issue are not understood by the Applicant. At no time, whether when saw blade 28 is up or down is it disclosed in Viazanko that scale holder 144 is between fence 22 and saw blade 28.

Thus, Applicant believes Claims 27 and 29 patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

Regarding Claims 30 and 32, Claim 30 has been amended to independent form to include the limitations of Claim 1 and Claim 32 has been amended to independent form to include the limitations of Claim 22. Thus, the arguments above relating to Claim 1 apply here to Claim 30 and the arguments above relating to Claim 22 apply here to Claim 32. Both Claims 30 and 32 include the limitation that the movable fence is movable to a position adjacent the cutting tool is perpendicular to the table.

Even though scale holder 144 is not a movable fence, no where in Viazanko does it disclose that scale holder 144 is positioned adjacent saw blade 28. Regardless of the position of platform 24, there will always be a gap between scale holder 144 and saw blade 28. Because it is not disclosed that scale holder 144 can be positioned beyond the end of fence 22, there is nothing disclosed in Viazanko that would suggest positioning scale holder 144 adjacent saw blade 28.

Thus, Applicant believes Claims 30 and 32 patentably distinguish over the art of record. Likewise, dependent Claims 28 and 31 are also believed to patentably

distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

REJOINDER

Applicant respectfully requests the rejoinder of Claims 2-7.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By. 

Michael J. Schmidt

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MJS/pmg